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Human Rights Council
Twenty-sixth session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Resolution adopted by the Human Rights Council

26/9 Elaboration of an international legally binding instrument on transnational corporations and other business enterprises with respect to human rights

The Human Rights Council,

Recalling the principles and purposes of the Charter of the United Nations,

Recalling also the Universal Declaration of Human Rights, International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights,

Recalling further the Declaration on the Right to Development, adopted by the General Assembly through its resolution 41/128 on 4 December 1986,

Recalling Commission on Human Rights resolution 2005/69 of 20 April 2005, in which the Commission established the mandate of Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, and all previous Human Rights Council resolutions on the issues of human rights and transnational corporations and other business enterprises, including resolutions 8/7 of 18 June 2008 and 17/4 of 16 June 2011,

Bearing in mind the approval of the Guiding Principles on Business and Human Rights by the Human Rights Council in its resolution 17/4,

Taking into account all the work undertaken by the Commission on Human Rights and the Human Rights Council on the question of the responsibilities of transnational corporations and other business enterprises[1] with respect to human rights,

[1] "Other business enterprises" denotes all business enterprises that have a transnational character in their operational activities, and does not apply to local businesses registered in terms of relevant domestic law.

Stressing that the obligations and primary responsibility to promote and protect human rights and fundamental freedoms lie with the State, and that States must protect against human rights abuse within their territory and/or jurisdiction by third parties, including transnational corporations,

Emphasizing that transnational corporations and other business enterprises have a responsibility to respect human rights,

Emphasizing also that civil society actors have an important and legitimate role in promoting corporate social responsibility, and in preventing, mitigating and seeking remedy for the adverse human rights impacts of transnational corporations and other business enterprises,

Acknowledging that transnational corporations and other business enterprises have the capacity to foster economic well-being, development, technological improvement and wealth, as well as causing adverse impacts on human rights,

Bearing in mind the progressive development of this issue,

1. *Decides* to establish an open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights, whose mandate shall be to elaborate an international legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises;

2. *Also decides* that the first two sessions of the open-ended intergovernmental working group shall be dedicated to conducting constructive deliberations on the content, scope, nature and form of the future international instrument, in this regard;

3. *Further decides* that the Chairperson-Rapporteur of the open-ended intergovernmental working group should prepare elements for the draft legally binding instrument for substantive negotiations at the commencement of the third session of the working group on the subject, taking into consideration the discussions held at its first two sessions;

4. *Decides* that the open-ended intergovernmental working group shall hold its first session for five working days in 2015, before the thirtieth session of the Human Rights Council;

5. *Recommends* that the first meeting of the open-ended intergovernmental working group serve to collect inputs, including written inputs, from States and relevant stakeholders on possible principles, scope and elements of such an international legally binding instrument;

6. *Affirms* the importance of providing the open-ended intergovernmental working group with independent expertise and expert advice in order for it to fulfil its mandate;

7. *Requests* the United Nations High Commissioner for Human Rights to provide the open-ended intergovernmental working group with all the assistance necessary for the effective fulfilment of its mandate;

8. *Requests* the open-ended intergovernmental working group to submit a report on progress made to the Human Rights Council for consideration at its thirty-first session;

9. *Decides* to continue consideration of this question in conformity with its annual programme of work.

37th meeting
26 June 2014

[Adopted by a recorded vote of 20 to 14, with 13 abstentions. The voting was as follows:

In favour:

Algeria, Benin, Burkina Faso, China, Congo, Côte d'Ivoire, Cuba, Ethiopia, India, Indonesia, Kazakhstan, Kenya, Morocco, Namibia, Pakistan, Philippines, Russian Federation, South Africa, Venezuela (Bolivarian Republic of), Viet Nam

Against:

Austria, Czech Republic, Estonia, France, Germany, Ireland, Italy, Japan, Montenegro, Republic of Korea, Romania, the former Yugoslav Republic of Macedonia, United Kingdom of Great Britain and Northern Ireland, United States of America

Abstaining:

Argentina, Botswana, Brazil, Chile, Costa Rica, Gabon, Kuwait, Maldives, Mexico, Peru, Saudi Arabia, Sierra Leone, United Arab Emirates]